

APS Supervisor's Tool

Determining the Adult Protective Services Finding

Physical Abuse or Cruel Punishment: In order to substantiate an allegation of physical abuse or cruel punishment, the CFS Specialist will determine and document the following facts of the case:

The alleged victim is a vulnerable adult; _____

The vulnerable adult has a physical injury;

The physical injury was not accidental or occurred due to the knowing or intentional act on the part of a caregiver or any other person. This element is met if the person intended to do the act and is not dependent on if the person intended the consequences.

Question to ask the worker:

1. What makes the person be a vulnerable?
2. What is the knowing or intentional act?
3. What is the Physical injury?

Unreasonable Confinement: In order to substantiate an allegation of unreasonable confinement, the CFS Specialist will determine and document the following:

The alleged victim is a vulnerable adult; and

The alleged victim was unreasonably confined to the extent that there was a physical injury; or

There is evidence of false imprisonment. – NE Rev. Stat. §28-314 and 28-315

Knowingly restrain or abduct a person and

Either terrorizing circumstance "I was afraid" "I was afraid for what would happen to Me." or circumstance that exposes someone to risk of serious physical injury or involuntary servitude.

Question to ask the worker:

1. What evidence do you have that leads to the conclusion that the alleged victim is a vulnerable adult?
2. What is the evidence of false imprisonment?
3. What is the Physical injury caused by confinement?

Sexual Abuse: In order to substantiate an allegation of sexual abuse, the CFS specialist will determine and document the following:

The alleged victim is a vulnerable adult;

There was no consent to the sexual act given by the vulnerable adult/victim or the alleged perpetrator knew or should have known that the alleged vulnerable adult/victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct;

The sexual abuse occurred due to the knowing, intentional act on the part of a caregiver or any other person; and

A description of the type of sexual abuse such as fondling, inappropriate contact, or intercourse will be documented.

(See Neb. Rev. Stat. Sections 28-317 to 28-321 and 28-703.)

Question to ask the worker:

1. What evidence do you have that leads to the conclusion that the alleged victim is a vulnerable adult?
2. What is the evidence of sexual abuse?
3. What is the type of sexual abuse?
4. How did the alleged perpetrator know that the alleged victim wasn't able to consent?
5. What is the evidence to show that the alleged victim didn't give consent?
6. Was the alleged perpetrator a caregiver?

Sexual Exploitation: In order to substantiate an allegation of sexual exploitation, the CFS specialist will determine and document the following:

The alleged victim is a vulnerable adult; and

There is evidence of unlawful intrusion; NE Rev. Stat. §28-311.

Knowingly intrude upon any other person without his or her consent or knowledge in a place of solitude or seclusion.

Intrude means either the:

- (i) Viewing of another person in a state of undress as it is occurring; or
- (ii) Recording by video, photographic, digital, or other electronic means of another person in a state of undress; and

Place of solitude or seclusion means a place where a person would intend to be in a state of undress and have a reasonable expectation of privacy, including, but not limited to, any facility, public or private, used as a restroom, tanning booth, locker room, shower room, fitting room, or dressing room.

or

A description of one of the following types of exploitation allowing, encouraging, or forcing a vulnerable adult to solicit for or engage in prostitution, debauchery, public indecency, or pornographic photography, films, or depictions will be documented.

Question to ask the worker:

1. What evidence do you have that leads to the conclusion that the alleged victim is a vulnerable adult?
2. What is the evidence of sexual exploitation?
3. What is the type of sexual exploitation and what evidence do you have?

Neglect – Perpetrated In order to substantiate an allegation of neglect, the CFS Specialist will identify and document the following:

The alleged victim is a vulnerable adult

The neglect occurred due to the knowing or intentional act or omission on the part of a caregiver.

The CFS Specialist will determine if the alleged perpetrator was in the role of the caregiver and had a duty to provide care or not.

A description of the essential service that was neglected; and

There is physical injury to a vulnerable adult or imminent danger of the vulnerable adult suffering physical injury or death.

Question to ask the worker:

1. What evidence do you have that leads to the conclusion that the alleged victim is a vulnerable adult?
2. What evidence do you have that the person was a caregiver as defined in statute?
3. Describe the knowing or intentional act or the knowing or intentional omission committed by the alleged perpetrator?
4. What evidence do you have?
5. Describe the essential service that was neglected.
6. Describe the physical injury or imminent danger?

Exploitation: In order to substantiate an allegation of exploitation, the CFS Specialist will determine and document the following:

The alleged victim is a vulnerable adult

There is evidence of an identified method such as undue influence, coercion, deception, extortion, or breach of fiduciary relationship, or other unlawful method.

If there is a breach of fiduciary duty, the CFS Specialist will identify the duties of the fiduciary such as to protect and preserve the assets and belongings of the vulnerable adult. Describe the breach of the duty such as investing in risky stocks, buying expensive clothing, buying things for self.

They must document what property was taken.

It is not necessary to prove that the vulnerable adult was harmed or that basic needs were not met.

The taking of property was completed without informed consent of the vulnerable adult. The CFS Specialist will document the circumstances of informed consent.

Question to ask the worker:

1. What evidence do you have that leads to the conclusion that the alleged victim is a vulnerable adult?
2. Describe the method of exploitation.
3. What evidence do you have that exploitation occurred?
4. Describe what property was taken.
5. What is the fiduciary relationship? How was the fiduciary duty breached? What evidence do you have to support this conclusion?
6. Does the alleged victim have the ability to consent? How do you know?
7. Was there a transaction that required informed consent? Did the alleged victim have information necessary to make an informed consent or were they rushed into the decision? What evidence do you have of this?

Determine the finding for Self-Neglect

Self-neglect: In order to confirm the presence of Self-Neglect, the CFS Specialist will identify and document the following factors:

The alleged victim is a vulnerable adult;

The vulnerable adult, due to physical and/or mental impairments or diminished capacity, is unable to perform essential self-care tasks or obtain essential services; and;

There is physical injury to a vulnerable adult or imminent danger of the vulnerable adult suffering physical injury or death.

Question to ask the worker:

1. What evidence do you have that leads to the conclusion that the alleged victim is a vulnerable adult?
2. Describe the physical and/or mental impairments or diminished capacity? Where did you get this information?
3. Describe how the alleged victim is unable to perform essential self-care tasks or obtain essential services? Where did you obtain this information?
4. What is the physical injury?
5. What is the imminent danger?